

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Fiber Link, L.L.C.
(U-6028-C) for Modification of its Certificate of
Public Convenience and Necessity ("CPCN") to
Review Proponent's Environmental Assessment
for Compliance with the California
Environmental Quality Act ("CEQA").

Application 99-08-021
(Filed August 10, 1999)

**ASSIGNED COMMISSIONER'S RULING
NOTING CORRECTIONS TO DECISION 02-08-063**

There were two errors in Decision 02-08-063 as it was approved by the Commission on August 22, 2002. The errors, which do not affect the outcome of the decision, are:

- The number of days in which applicant was found to have performed unauthorized construction was 216 rather than 550, but the penalty assessed for this violation remains at a mitigated \$25,000.
- As required by Pub. Util. Code § 1701.2(a), the decision should include an explanation of each of the changes made to the proposed decision of the Administrative Law Judge (ALJ).

I intend to prepare an order correcting this decision. As part of that correction, the first full paragraph on page 23 will be changed to state:

"We conclude, after review of the record as a whole, that PFL's cooperation with Commission staff, its efforts to comply with the substantive requirements of CEQA, and the Commission's own uncertainty in 1998 in dealing with the CEQA requirements for NDIEC entrants, mitigate against sanctions as recommended by

CSD. The evidence shows that PFL performed unauthorized construction for 216 days prior to the time it was provided a stop-work order by the Commission's Executive Director. Pursuant to Pub. Util. Code § 2107, a minimum penalty of \$500 for each of the 216 days in which unauthorized construction took place results in a potential fine amount of \$108,000. However, due to the extensive mitigating factors, the Commission suspends \$83,000 and fines PFL \$25,000."

The order correcting the decision will change the Summary Paragraph and Ordering Paragraph 1 to show a penalty of \$25,000 rather than \$22,500. The order also will add an explanation of each of the changes made to the proposed decision of the ALJ.

IT IS RULED that:

1. An Order Correcting Decision will be prepared to make the corrections set forth in this ruling.
2. Parties may (but are not required to) comment on this ruling within 10 days of the date hereof.

Dated August 29, 2002, at San Francisco, California.

/s/ HENRY M. DUQUE

Henry M. Duque
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's Ruling Noting Corrections to Decision 02-08-063 on all parties of record in this proceeding or their attorneys of record.

Dated August 29, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.